THE DEPUTY CHAIRMAN: The question is :

"That the Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the services of the financial year 1987-88, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

THE DEPUTY CHAIRMAN : We shall now take up clause-by-clause consideration.

Clauses 2 to 4 and the Schedule were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI B. K. GADHVI : Madam, I move :

"That the Bill be returned."

The question was put, and the motion was adopted.

THE PAYMENT OF GRATUITY (AMENDMENT) BILL, 1987—*Contd.*

THE DEPUTY CHAIRMAN : Now the Payment of Gratuity (Amendment) Bill, 1987. The time allotted was 2 hours. Now one hour and four minutes left.

SHRI P. N. KAUL (Uttar Pradesh): Madam Deputy Chairman, I rise to support the Payment of Gratuity (Amendment) Bill, 1987. It is a very simple Bill and it is also a very welcome Bill. I personally thought when the Government came up with an amendment in the Payment of Bonus Act raising the wage limit from Rs. 1,600 to Rs. 2,500, that they would follow it up with an amendment in the Gratuity Act also. However, the Government has taken some time. I do not know why. But, I welcome it even at this stage. If the wage limit for purposes of payment of Bonus could be raised from Rs. 1600 per month to Rs. 2,500 per month, on the same analogy the wage limit proposed to be increased from Rs. 1,600 to Rs. 2,500 is quite in order and I support it.

Gratuity is paid subject to a ceiling of 20 months' wages. That is the ceiling. Nobody can receive by way of gratuity more than 20 months' wages. Now, this limit of 20 months' wages is proposed to be replaced by a monetary limit of Rs. 50,000. Now if the wage limit is Rs. 2,500 and the maximum period allowed is 20 months then 2500 x 20 comes to 50,000. So, virtually there is no difference between the two. I do not know why Government is now trying to replace the ceiling of 20 months' wages by Rs. 50,000, because they are practically one and the same.

At present the employees in non-seasonal establishments get 15 days' wages as gratuity for one year of service and those in seasonal establishments get seven days' wages by way of gratuity. These limits are not being revised. So, as regards non-seasonal establishments fifteen days' wages for every year rendered as service will be there and also as regards seasonal establishments only seven days' wages for each season will be there. Now there is a little anachronism here. You say 20 months' wages can be paid as gratuity, but for one year only 15 days' wages will be paid. It means for getting the maximum gratuity proposed to be admissible under the law, one has to put in service amounting to 40 years. I think very few people may be in a position to put in 40 years' service to earn 20 months' wages as gratuity. People work mostly for 30 years, 33 years and 35 years. It means even less than one per cent will be in a position to get the maximum gratuity under the law. They cannot get it.

As regards the Central Government employees, they also get fifteen days' wages for every year of service rendered as gratuity. The maximum limit there is sixteen and a half months. Here it is 20 months' wages and the Central Government employee gets as maximum gratuity the wages for sixteen and a half months. This is totally erroneous. It seems to be rather an *ad hoc* arrangement. Why fifteen days' wages as gratuity only in a particular year? If bonus can be paid at the rate of 8.33 per cent, why not gratuity be paid at the same rate? So, my suggestion is that gratuity should also be paid to an

[Shri P. N. Kaul]

employee at the rate of 8.33 per cent. It means for every year of service rendered, he should be entitled to get one months wage as gratuity. Madam, I also take this opportunity to suggest one thing; although it does not concern the Labour Ministry but I want the Government to consider this. In the case of Central Government employees and State Government employees also gratuity should be paid to them at the rate of one month's wages for every year of service rendered. In the case of those employees who work in the seasonal establishments instead of 7 days' wages per season as gratuity admissible to them, I suggest at least 15 days' wages for every season should be paid to them.

Madam, gratuity is payable on superannuation, retirement or resignation from service after completion of 5 years' service. Though this condition of 5 years service, is not applicable in the case of termination of employment due to death or disablement, I feel this period of five years of qualifying service for getting gratuity seems to be rather on the high side. There is no justification for this. You keep a man on probation for not more than one year. Therefore, after one year one should be entitled to get gratuity just as in the case of bonus. Bonus is paid to a person whether he works for one year or five years, every year. So a worker should become entitled for gratuity also after completion of one year of service. I suggest that the period of 5 years qualifying service for making a person eligible to get gratuity should be reduced from 5 years to 1 year.

In the case of termination of service of an employee on the disciplinary ground or on any other considerations, my suggestion is that gratuity should be paid for the entire period of service rendered by him. I have been told that in certain cases, gratuity is forfeited under disciplinary action or after termination of service. Since he has worked for that period, he should be deemed to be entitled for payment of gratuity.

It is indeed good that interest will now be paid on the amount of gratuity for the delayed period, that is, for a period of more than 30 days. There is a provision in the Bill that within 30 days gratuity should be paid and if the payment is not made even after 30 days when it falls due then a simple interest will also be paid to the concerned person. My submission is that instead of simple interest, it should be a compound interest. This compound interest should be paid to him at the rate of interest paid on fixed deposits. As it is suppose an employer does not pay gratuity for five years. He keeps the money in his own bank and gets the interest for himself and actually that benefit should accrue to the worker, to the employee. So by withholding the payment the employer is getting the benefit out of that money. So interest should be paid on such amount of gratuity which are badly delayed or which are delayed for more than the stipulated period, at the rate of interest paid on fixed deposits in the banks. In other words, for five years, if gratuity is not paid, whatever interest is paid on fixed deposits for five years, should be paid to the employee alongwith the amount of gratuity. It is indeed a very welcome measure that a provision is now being made for compulsory insurance of the employers' liability to pay gratuity under the Act or in the alternative for the setting up of a Gratuity Trust Fund under the Income-Tax Act regarding the establishments employing 500 or more persons. I do not know why this limit of 500 persons is there. There must be some rationale behind it. In this way, you are going to do injustice to the employees. Why are you doing it only for those employees in such establishment which are employing 500 persons and why not in establishments where only 300 or even 100 persons are employed? In my opinion, to begin with, it should be obligatory for the industries employing 100 persons to have a Gratuity Trust Fund and there should be a provision for the insurance coverage as well. In fact, the ideal thing would be to allow it in the case of industries employing 50 persons only. As I said earlier, you can start it in the industries which employ 100 persons.

In the end, I would like to point out that there are many industries including the Railways where there are so many casual workers. Casual workers are con-

tinued year after year. They are kept casual so that the employers do not have the liability to pay so many benefits to those casual workers. Those casual workers are casual not because of any fault of their own, but because of the convenience of employers. That is why, I will suggest that a casual worker who has been in service for one year should also be entitled to get gratuity. In other words, for purposes of payment of gratuity, casual workers should also be entitled to receive the payment. As I said earlier, one year's continuous service should be the qualifying service in order to entitle the casual workers for payment of gratuity. It is a very simple Bill. With these words, I support this Bill.

SHRI GURUDAS DAS GUPTA (West Bengal): Madam Chairperson, I am sorry I cannot oblige the hon. Minister of Labour by rendering him unqualified support for the Bill he has introduced. The Bill, of course, is a partial improvement in the sense that an attempt is being made to plug a number of loopholes in the previous enactment. But I am sorry to say that the attempt that is being made is half-hearted, tardy and inadequate and, therefore falls short of the requirements. What is the problem with the payment of gratuity? Let us go into the merit or the root of the question. The problem is that the indiscipline in the industry is on the rise, mismanagement is on the rise and misappropriation on the part of those running the industry is on the rise. The five-star culture acquired by the industrialists is affecting the workers in every way. The payment of gratuity is being delayed deliberately under the influence of the new culture and such incidents of delay are on the rise. Secondly, the cases of non-payment of gratuity are also alarmingly on the rise. Therefore, to counteract the indisciplines among the employers, the amendment that is sought for is too inadequate and timid. It is really difficult to counteract it only by stipulating a provision that the employers will have to pay interest and that too simple interest for the period of delay. It is not a penalty in consideration of the offence that is committed. Therefore, the penalty has to be strict and more deterrent in nature. To my great surprise, Madam, payment of gratuity is becoming a casualty not in the private industries alone, but also in some of the public sector undertakings which are adopting the same course. There are complaints and the complaints are on the rise about the non-payment of gratuity in the Central sphere and these complaints are increasing. I will not be giving any secret information or violating the Official Secrets Act if I give some information with regard to this and the information that I could collect strangely states that the public sector undertakings falling in the Central sphere are as much the offenders in this respect, may be a little less as the private sector industries. Now, I will give you a few facts. Till 31st March 1985, the volume of unpaid gratuity was Rs. 40,20,000. Next year that is, till 31-3-1986, the amount of unpaid gratuity increased to Rs. 53,83,000. Then, as on 31-3-87, that is the current year, the amount rose to Rs. 58 lakhs. Just imagine. If a sum of Rs. 58 lakhs is not being paid mostly by the public sector undertakings, you can very well imagine what the situation would be in the private sector industries. Now, if I go into the details, I will have to tell you who the defaulters are. Coal India Limited is the greatest defaulter. In particular, in the Asansol and Dhanbad areas, an amount of nearly fifteen lakhs of rupees has not yet been paid to the poor workers who have completed their job, who have rendered service to the nation risking their lives. But their savings have not yet been paid by the authorities of Coal India Limited in the Asansol and Dhanbad sectors. Payment of about fifteen lakhs of rupees still remains pending in these areas. Then Bombay comes next, the great city of Bombay. It may be your city, Madam Deputy Chairman. But even there we find a large number of offenders in respect of payment of gratuity. A sum of Rs. 20 lakhs has not yet been paid till the 31st March of the current year. Next come Jabalpur and Kanpur. If this is the range of indiscipline in the management of the public sector undertaknigs for which the Government is responsible to Parliament and, if I may say so, to the people of this country, then you can very well imagine what the level

[Shri Gurudas Das Gupta]

of corruption, mismanagement and indiscipline is in the private sector industries. Here I am quite sure that the honourable Minister does not know even the number of cases pending in the private sector because the honourable Labour Minister does not have the monitoring system. We have a Provident Fund Commissioner to tell us how many cases have been registered and whether any complaints have been made about non-payment of Provident Fund. But the Labour Ministry has no monitoring system in respect of payment of gratuity. Secondly, we do not have sufficient provisions under the law which can penalise a person for not paying the gratuity in time. Therefore, Madam, I believe that this Bill fails short in the specific respect of stipulating deterrent measures so that the dilatory tactics adopted by the industries can be stopped or at least curbed. Coming to the Bill, I am quite in agreement with the previous Speaker that the limit on gratuity has to be removed. The real value of the rupee has gone down. The great Government led by Shri Rajiv Gandhi has landed the economy in a situation where the real value of one rupee is only 14 paise.

THE DEPUTY CHAIRMAN: Now the House stand adjourned for lunch and will meet again at 2.30 P.M. Mr. Gurudas Das Gupta will continue his speech.

The House then adjourned for lunch at thirty-one minutes past one of the clock.

The House re-assembled after lunch at thirty-four minutes past two of the clock, **[The Vice-Chairman Shri H. Hanumanthappa)** in the Chair.]

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): We will continue the discussion on the Payment of Gratuity (Amendment) Bill. Shri Gurudas Das Gupta to continue his speech.

SHRI GURUDAS DAS GUPTA : Sir, lunch has intervened when I was talking about Mr. Rajiv Gandhi.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): On Gratuity Amendment?

SHRI GURUDAS DAS GUPTA: Yes. He is the head of the Government. I have been talking of Rajiv Gandhi because the policy that is being pursued has resulted in a run-away inflation and the run-away inflation has resulted in the erosion of the real income of the working people of the country. The real value of one rupee is only 16 paise. In a situation like this, it is most unusual, unreasonable and unpardonable on the part of the Government to put a curb on the earned income. Why to put a curb on earned income? While you have the scheme of amnesty for the people having unearned income, you have a plan to touch and put a limit on the earned income. That is unfortunately the philosophy of your Government. Therefore, I would suggest that the attitude that you are taking towards ous so as to respond to my suggestion and withdraw the limit on the quantum of total gratuity. I am more sure because you are having your amnesty plan. A gentleman, Mr. Thapar, he is still on bail even violating the assurance that he had given to the court that he will be repatriating the money he had illegally smuggled out of the country. The time has expired and the bail has not been withdrawn. The man has not been touched. That is the attitude that you are taking towards unearned income. If that is the policy towards unearned income, if that is the policy you are adopting. Why are you becoming so hard towards earned income? Therefore, my humble suggestion is that the curb on total quantum for gratuity should be withdrawn. There should be no limit as such.

Secondly, Sir, I would like, the hon. Minister to take another point into consideration. How do you calculate the time period for gratuity payment? Supposing a worker was put under suspension illegally by the management; illegally because ultimately in the course of the inquiry it was found out that there was no substance, there was no reason, there was no ground for imposing the penalty on him. There are many cases like that. Hon. Minister knows that for three years the AITUC General Secretary of the Central Cotton Mill, Howrah, was put under suspension. Then that poor person when retires, that three years is not taken into considera-

tion. Therefore, I would like to ask the hon. Minister specifically to tell us how he is going to calculate the period of suspension of the workers and trade union leaders who are generally put under suspension for allegedly violating the labour laws in our country. I should suggest, Sir, that it should not be 15 days for every year. It should be one month for every year, after completion of seven years or five years of service. It should not be 15 days, but it should be one month.

Sir, I seriously object that there should be a fund maintained by some concerns. We know how this fund is handled by the people who own the industry. We know how the ESI fund is being handled. We know how the Provident Fund is being maintained. Therefore, please do not give any scope to the private management to mismanage and mishandle this gratuity fund. In my suggestion, the gratuity fund should be with the Government and not with the particular employer. You have your scheme of insurance. But you have also made a provision for maintenance of gratuity fund in some cases by the employers. In my opinion, that gives an opportunity to the people who are indisciplined to misuse the fund. Therefore, my suggestion is that this fund should vest with the Government and not with the private employers.

Sir, I again plead for the setting up of a monitoring system. There should be labour monitoring system to find out to what extent gratuity payments are being made, to what extent it is being paid in time, to what extent it is not being paid in time. what are the cases of default, how the cases of default are being inquired into and what is the time period for settling these cases. There shouuld be an elaborate arrangement for monitoriag the whole thing. Otherwise the poor workers are going to be penalised or are being penalised by the private as well as public management.

Sir, my last point is that default in payment of gratuity should be made a criminal offence. It should not be a civil offence. It must be made a criminal offence. The person who usurps the hard-earned money of poor workers, the man who produces goods in a factory and works with this sweat and blood is being deprived of his normal income at the fagend of his career when he has to look for a bridegroom for his daughter, when he has to look for opportunities of further study of his sons and daughter, when he has to look for the opportunity of making a provision for his future, at that moment of time he is being deprived of his rightful payments due to him. Therefore default in payment and dilatory tactics are the same because workers do not get payment in time. These should be made a criminal offence. Why not the property of the industrialist be attached if he does not pay gratuity in time? Why not the ornaments of the wife of that industrialist be sold and auctioned if he misappropriates the funds of the provident fund account of the employees?

As regards the P.F. funds defalcation, and the defalcation of ESI funds, the Government has not been treating these as criminal offences. People who violate the social laws, people who are the worst criminals are not being treated by the Government with the severity they deserve but with softness, and that is where the problem lies. Therefore, my last appeal to the Labour Minister will be to amend this Bill to the extent that defalcation of funds and dilatory tactics in payment deliberately adopted are taken cognizance of as criminal offences and such people who indulge in there offences should be treated as criminals under the criminal law and they should be punished in the same way a criminal is punished.

Finally, I definitely say that the Bill is an improvement in so far as the previous Bill was concerned but the improvement is not adequate. The improvement is timid. This improvement will not result in pugging all loopholes. Therefore, I suggest a revision of the Bill in such a way that it becomes foolproof. Thank you.

SHRI CHIMANBHAI MEHTA (Gujarat): Mr. Vice-Chairman, I welcome this Bill because the amendments that are proposed in the Bill are vital and substantial, and not timid as my friend just now has said.

The ceiling limit of Rs. 1600/- for keeping eligibility for the gratuity is being

[Shri Chimanbhai Mehta]

enhanced to Rs. 2500/-. It is quite a substantial increase, almost 50 per cent. Of course, I know that the rupee value is falling down but then in the Bill itself care has been taken and there is an enabling provision to say that the Government on its own can raise the limit in the changed circumstances. Therefore, the limit of Rs. 2500/- is not the absolute limit in the Bill and the enabling provision would help the Government to revise the ceiling from time to time.

I know there are several countries in the world where there is no provident fund scheme, where there is no gratuity scheme, where there is nothing like the ESI scheme, and some of them are industrially advanced countries. Here, in our country, women have got several social security measures and time and again, in response to the needs, and in response to the demand of labour movement, the Government has been revising these labour security and social security Acts. Therefore, this is a vital step in that direction.

I know I can demand so many things. Why one month's gratuity? I also belong to that section of trade union movement. I would say why one month's gratuity? It should be two month's gratuity. What is wrong in demanding that? I can also say that there cannot be any limit. But we have to look to the country's management of the economy on the one hand and the plight of the unorganised labour on the other because, ultimately we know on whom the burden will fall.

Therefore, we have to take an overall view. When we are demanding that the limit should be raised, we should also see the present context and welcome the amendments brought forward by the Government. Formerly, it was Rs. 1600 and twenty months wages. This comes to Rs. 32,000. Now, it has been increased to Rs. 50,000. The difference between Rs. 32,000 and Rs. 50,000 is obvious. It is a good and substantial improvement. There is also a provision for compulsory insurance. When a compnay goes into liquidation or the management goes bankrupt, there is an inbuilt provision that the compulsory insurance scheme would take care of the interest of the workers.

In the case of interest, I think, some improvement is possible. At least, if not today, in future, this may be considered because by delaying it is mentioned 'simple interest'. As you know, some managements would not like to pay the gratuity in time because here they would be paying only simple interest, whereas they have to pay, by way of interest, around 18 per cent on the loans they may be taking from the bank. In this Bill, it has also not been made known here what exactly would be the rate of simple interest. If it is equivalent to the bank rate in the case of loans or something higher, it will be in the interest of the workers. In that case, the money would be coming forth immediately from the employer. The delay or evasion in paying gratuity takes place because if the money is kept with the employer, it is advantageous to him compared to taking loans from the bank. Therefore, to consolidate the advantage in favour of the workers, we should work out some beneficial interest rate.

Sir, I know there are some managements which are vindictive. My friend has pointed out about the accumulation of arrears. There are some managements who would like to penalise the trade union leaders working in their establishments. Sometimes, they do not pay provident fund or gratuity because if the workers go to court demanding something higher, or for their grievances they can say that the case is pending in the court and unless it is withdrawn, management would not pay the provident fund or gratuity. Therefore, I say, this should not be conditional. Provident fund and gratuity should be paid on retirement because these are the absolute requirements of the per-

son who retires. With these observations, I welcome this measures as it is in the interest of the working class. Thank you.

SHRI CHITTA BASU (West Bengal): Sir, this Bill, broadly speaking, is an improvement on the original Act. Therefore, the hon. Minister deserves some good wishes from this side. But one thing I would like to stress and this relates to the implementation of the Act. Under this amending Bill, it is proposed that there would be a controlling authority which will be required to look after the gratuity funds to be created by certain employers. Secondly, all establishments, factories are also required to insure themselves for the payment of gratuity. Now the hon. Minister has got rich experience that the workers of the small factories employing, say, ten or twelve or fifteen persons, are always at the receiving end. Particularly, I have got my own experience that they do not get the payment of gratuity and other facilities provided by the law. Now I am a little bit disappointed as to the mechanism of monitoring of ensuring the payment of the gratuity as provided by this amended law. Here only the controlling authority is visualised. The Act envisages that the machinery, according to me, is the controlling authority and who would be the controlling authority? So far as the Central sector is concerned, it is found that the Assistant Labour Commissioner (Central) would be the controlling authority, but what about States? There are Labour Commissioners, Assistant Labour Commissioners and other officers in the Labour Ministry of the State Government. Naturally, it is expected that they will be uathorised to function as the controlling authority at the State level. As far as my experience goes, the number of registered units in a State sometimes will exceeds more than several thousands and the staff of the Labour Ministry of the State is not so much that they can have the overseeing capacity to look after the Trust fund and also the units which have been insured for the payment of the gratuity. Would the hon. Minister be kind enough to say what would be that particular machinery which will ensure implementation of the Act, having regard to the fact that the State Governments haven't got the adequate personnel capacity to look after or fulfil or perform or discharge the additional responsibilities that this Act will bring upon them?

My second point, Mr. Vice-Chairman is about the administration of the provident fund which is also a kind of fund which goes to meet the requirement of the employees after retirement. Gratuity is also of that nature. It caters to the needs of the workers and employees after their retirement, after they cease to be the earning members. For the purpose of provident fund there is the administrative machinery like the Regional Provident Fund Commissioner, etc. Non-payments etc. are looked after by that organisation. Here to my great surprise I do not find any provision for the day-to-day management of the fund created under the Trust or of the insured units. What would be the administrative infrastructure in such cases because this involves a large number of units, several lakhs of them all over the country?

Again, during the time of lock-out or closure the workers can draw money on the basis of loan to maintain their subsistence level. They can get some relief from the provident fund by way of loan. Now why should this gratuity fund not have that kind of provision for the employees if there is a lock-out or closure because closure of lock-out has become an edifying phenomenon in our country today and the employee suffers the most? Therefore I would like to know whether the Government or the hon. Minister will look into this suggestion that the provisions so far as administration of provident fund is concerned are also more or less, by and large, made applicable to the administration of the gratuity fund and the reliefs which are generally provided by the provident fund should also be extended in the case of gratuity fund in line with the administration of provident fund.

[Shri Chitta Basu]

Thirdly, a point was made about the qualifying period. Many Members have discussed it in detail; so I would not like to go into it in detail. Simply I feel that when a worker becomes permanent after completing 240 days in a year and that is sufficient qualification for him to become entitled to his retirement benefits, the existing qualifying period of five years should be reduced to one year if you really want to convert it or transform it into a real social legislation.

Now regarding the quantum of gratuity, it is 15 days' wage for each year of service. Now there is a general understanding that for one year service a worker or employee should have one month's bonus, i.e. 8.33 per cent. That is more or less an accepted norm. Therefore the rate for the minimum bonus should also be the minimum quantum for gratuity—i.e. 8.33 per cent. For each year's service this should be computed as gratuity for the retiring employee. (*Interruptions*) It comes to one month for each year. The principle is more important than the quantum. You compute minimum bonus at the rate of 8.33 per cent which has got a rationale. A worker shall work for 12 months but will get 13 months' wages. That is the general principle. Therefore that should be applied n this case.

With these observations, I feel that this legislation, though small in side, has got far-reaching effect in so far as social legislation of our country is concerned and it would be quite welcome by the working class of our country if these suggestions are also taken into consideration.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): Hon. Minister.

SHRI GHULAM RASOOL MATTO: (Jammu and Kashmir): My name was there.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): May be in the next Bill. It is not here.

3 P.M.

THE MINISTER OF STATE OF THE MINISTRY OF LABOUR (SHRI P. A. SANGMA): Sir, I am grateful to all the hon. Members who have participated in this debate. I thank them more because all the hon. Members, those who have participated and also those who have not participated like Mr. Matto, have extended their full support to this Amendment Bill.

Sir, the Gratuity Act came into existence in 1972, and since then it has been functioning. In the course of the implementation of this Act, the workers, the managements, the State Governments, the Central Government have gained some experience, and on the basis of this experience we have been receiving a number of suggestions from all quarters, particularly from the trade union side, so as to bring some improvement in this Act.

The most important suggestions that came in were that the time-limit for the payment of gratuity might be prescribed in the Act itself. There has been a suggestion that there should be a suitable provision for recovery of interest in case the gratuity due to the workers is not paid within time, if it is delayed. There has also been a suggestion that the wage limit for coverage should be enhanced from Rs. 1,600, that the ceiling for payment of gratuity also should be enhanced. And since there has been some delay in the payment of gratuity to some workers it was strongly felt that there should be a gratuity fund so that there will be no delay in the payment of gratuity. All these suggestions were examined by the Ministry. It was placed before the Labour Ministers Conferences in 1980 and 1982, and it was also finally discussed in the Indian Labour Conference in 1985. And on the basis of the deliberations in those Conferences, we have come before this House for the amendment of this Act, incorporating all the suggestions that we have received.

Mr. Gurudas Das Gupta has mentioned that there has been a lot of delay in the payment of gratuity to the workers. He cited an example from the Central sphere. Obviously, this Amendment has come because there have been delays. Mr. Das Gupta, of course, quoted a figure which

he got from me. But while giving him the figure I explained to him what Central sphere means. You have said that Central sphere means that it refers to dues from the public sector undertakings. It is not. Central sphere means that it is in connection with those industries for which the Central Government is the appropriate Government. So, it can be the private sector, it can be the public sector. The State sphere means it is in regard to those industries for which the State Government is the appropriate Government, and it can be the public sector, it can be the private sector also. So, Central sphere does not mean that it deals only with the public sector and State sphere does not mean that it deals only with the private sector. That is not the position. But the figure which you have quoted, of course, is the correct figure. But I only want to clarify that it does not necessarily mean that the figure which you have quoted, relates exclusively to the public sector. That is not the position.

But I agree with you that we must have some sort of a monitoring system. I wanted to get the figures in the State sphere. It was possible for me to collect figures of Central sphere because we are the appropriate Government. We maintain the records. That is how we could furnish you also. But I do not know whether the State Governments are maintaining records or not. I have asked my Department to check it now and compile those. I agree with you that we must get this information. Otherwise, we do not know where we stand actually.

I don't think I need to dilate very much on the merit of the Act or the merit of the Amendment because everybody has expressed satisfaction or semi-satisfaction—I do not know—like Mr. Das Gupta. But I think there are a few points which individual hon. Members have raised, and I would like to clarify some of those points.

Mr. Sukomal Sen, Dr. Vijaya Mohan Reddy, Mr. P. N. Sukul and Mr. Chitta Basu have raised the question of the qualifying period for payment of gratuity, that it should be reduced from five years to one year. When the Act came into existence, somebody went to the Court. In 1983 the hon. Punjab High Court had given a ruling that even this five-year period is too much. Qualifying period should not be five years. So, it should be 10—15 years or more. I do not know. The reason they say and I quote:

> "Gratuity is essentially a retirement benefit payable to a worker as a reward for good, efficient and faithful service rendered for a considerable period. As such it is essential that a longer minimum period should be prescribed for **earning gratuity in case of voluntary resignation."**

SHRI GHULAM RASOOL MATTO: Have you gone for an appeal?

SHRI P. A. SANGMA: Of course. I respectfully submit that we do not subscribe to the view expressed by the Hon. Punjab High Court. Therefore, we have gone to the Supreme Court on an appeal. Now, that appeal case is pending before the Supreme Court and the hearing has not yet taken place. I am only bringing to you the reason why I have not gone below five years is this that it is a matter which is before the court. That is what I wanted to explain.

I may point out that in the case of the Central Government employees or the Government servants rather, the gratuity is payable only after ten years. At least ours is much better—five-years—but in the case of Central Government servants it is payable only aften ten years of service. That is the position I would like to clarify.

Then, as far as the minimum period of service required to be put during a year is concerned, again Mr. Sukomal Sen, Mr. Prithibi Majhi, Mr. Narayanasamy and Mr. Gurudas Das Gupta also mentioned that it should be reduced from 240 days to less number of days. Some said 120 days or so. We have gone into this aspect and have come to the conclusion, which is before us now here. While we are computing these 240 days of work within a year, we have decided that the period of leave with wages, temporary displacement due to accident maternity leave and lay-off shall be counted as "having worked" within 240 days. Of course,

[Shri P. A. Sangma]

Gurudas Das Gupta's pointed at the extreme case, including the people who are under suspension, is not covered at the moment. I do not know whether it should be done. I have my own doubts about it. But as I said for 240 days, we have ...

SHRI GURUDAS DAS GUPTA: I am on a point of clarification, while associating myself with the concern of the hon. Minister, I put a question to him like this. While computing the perod for payment of gratuity what you are going to do in the case of a suspended worker if, it had been subsequently found that the suspension order was wrong and the suspension order was withdrawn? Supposing a person is under suspension for three years. Because he was under suspension for three years under a Government company say the NTC in West Bengal and ultimately the suspension order was withdrawn at his initiative, that poor worker is going to lose 45 days' gratuity because he was under suspension. I would like him to tell me what he is going to do in such cases, where at least the suspension order has subsequently been withdrawn.

SHRI P. A. SANGMA: We are talking about gratuity and the hon. Member has brought in the question of bonus. However, I will examine that. I am not able to react to your suggestion at the moment, but I am saying that my instant reaction is that it does not seem to be very feasible in the case of the people who are under suspension and all that.

Now, the rate of gratuity should be enhanced. A point has been made that it should not be 15 days' gratuity, but it should be for one month. I think hon. Members, Mr. Sukomal Sen and Mr. V. Narayanasamy have also made this point. Mr. Sukul is not here and he has also made this point. But I think this point was dealt with by Mr. Mehta. He has answered this question partially. As far as gratuity is concerned, I can only say that it is comparable to the gratuity with the overnment servants because existing rate for Government servants is also half month's pay. So we are not deviating from that point and we are very much comparable, the industrial workers and the Government servants. In the case of Government servants it is 15 days.

Regarding ceiling of gratuity some hon. Members have said that it should be Rs. 50,000 but it should not be less than 20 months' wages. I think that calculations we have already given and I would not like to go into the details. Mr. Sukomal Sen and Mr. Kailash Pati Mishra have said that a Gratuity Board should be created. Now, it is only a question of name. I think we are going for a gratuity fund and hon. Members have suggested Gratuity Board. They may be thinking in terms of provident fund. I think hon. Member, Mr. Chitta Basu has made this point. These two things are not comparable, because as far as provident fund is concerned...

SHRI CHITTA BASU: If the gratuity fund is going to be created then all the units are also to be insured. It requires some administrative infrastructure. What is the administrative infrastructure you having visualised? There is no mention about that infrastructure in the Bill. I presume it will be the State Labour Ministry and at the Central level you have got the Assistant Labour Commissioner. This is the first point.

The second point is that so far as relief is concerned, during lock-out and closure some relief is available from the provident fund. May I know from the Minister whether that principle will also be extended to the gratuity fund also?

These are two points on which I want clarification from the Minister.

SHRI P. A. SANGMA: I have come to your point. We have made it mandatory for the employers either to insure the liability with the Life Insurance Corporation or if they cannot do it, they should go in for a gratuity fund. How you are going to adminster is a question. Honourable Member, Mr. Chitta Basu has himself pointed out that we have provided for a controlling authority both at the Centre and at the state level and I suppose it is the responsibility of the Central Govern-

ment and the State Governments to ensure. I agree with him that most of our laws, not only Gratuity Act, I would say that more so, in the field of unorganised labour like Minimum Wages Act, Equal Remuneration Act and Contract Labour Act, their implementation is not very much satisfactory. That is why I had an occasion to emphasise on the floor of this House that so far we have been concentrating ourselves in bringing a new law by amending the existing law but we have not paid adequate attention towards the implementation of law. We have decided from now that we will pay more attention towards implementation of the existing laws. For that we have already had the Labour Secretaries Conference on 28th and 29th of last month and we are going to have Labour Ministers' Conference on 20th May this year and our topic of discussion in this conference will be only "The implementation of the existing laws—how to monitor—how to strengthen the infrastructure machinery—what are the problems that Governments are facing." We want to draw up an action programme as far as implementation of the laws is concerned. This is all I can say at this moment.

Honourable Members, Mr. V. Narayansamy and Mr. Kailash Pati Mishraji have demanded that this Bill should be extended to all the establishments. Now, at the moment, this Bill covers the factories, mines, oil-fields, plantation, ports, railways. But if you look at Section 2(c) of the Act, it empowers the Central Government to extend the provision and the coverage of this Act to any establishment. There is no problem of extending the provisions of Gratuity Act to other establishments because it already has an enabling provision. As a matter of fact, recently, in the last few years, we have extended this Act to many other establishments like water transport undertakings; we have extended it even to clubs, chamber of commerce and industry, inland water transport establishments, solicitor's offices, local bodies, even to circus industry. We have been from time to time extending this Act to other establishments. Now, Shri Sukul, Shri Chitta Basu ...

श्री कैलाश पति मिश्र (बिहार) : एक प्वाइंट आफ क्लेरीफिकेशन है । आपने कहा कि सब तरफ एक्सटेंड कर दिया गया है । मैंने एक फैक्टरी का उदाहरण दे करके यह मांग किया था, डालमिया इंडस्ट्री की फक्टरी साढ़े चार साल से बंद पड़ी हुई है । फैक्टरी खोलना तो अलग विषय है, लेकिन बीस वर्षों से काम करते हुए जो कर्मचारी हैं उनका प्रोवीडेंट फंड, उनकी ग्रेच्यूटी जो जमा होनी चाहिए थी और फैक्टरी बंद हो जाने के बाद जो उनको पैसा प्राप्त हो जाना चाहिए था वह एक पैसा भी अभी तक प्राप्त नहीं हुआ है । और उस में से सौ से ज्यादा तो मर भी गए हैं । इसलिए मैं यह जानना चाहता हूं कि इसका यह कवरेज कसे होगा ?

SHRI P. A. SANGMA: As far as Rohtas industry is concerned, it is a completely separate issue. Rohtas industry has been under closure. As far as Government is concerned, it is the Bihar Government which is the appropriate Government for the Rohtas industry. We have intervened in the matter and I have been trying to exert my influence over Bihar Government and the management. But I do not think it really comes into the picture here at all, though I know the case very well because I was involved in trying to sort out this problem.

Shri Sukul, Shri Chitta Basu and Dr. Vijay Mohan Reddy have also suggested why establishments employing 50 or more persons should not be allowed to maintain gratuity fund, why only 500 and more. We thought that smaller establishments may not find it feasible to have their own gratuity fund. Therefore, we thought to have it from 500 and above. We can review it later on. But the fact is that before the Act comes into operation, if the smaller establishments want to have their gratuity fund, they can still have it because the Act says those who are already having it will not be touched at all. Before the Act comes into existence if those establishments who are employing below 500, want to establish the gratuity fund, they can very well do so. But the moment the Act comes into effect, they will not be

[Shri P. A. Sangma]

able to do it. But there is still a way if they really want to do it.

Then, Shri Gurudas Das Gupta and Shri Narayanaswamy were vehement on the point of providing for only simple interest if they do not pay within one month. If you look at the Bill carefully you will find that if an employee files a complaint before the controlling authority, the controlling authority has the power to grant not only simple interest but also compound interest. So that provision is available if the employee chooses to go before the controlling authority. So that is also available.

I think these are the main points which have been raised by the honourable Members and I thought these were the few things that I should clarify. With these words I would once again thank all honourable Members for having supported this Bill.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): The question is:

"That the Bill further to amend the Payment of Gratuity Act, 1972, be taken into consideration."

The motion was adopted.

Clause 2 - Amendment of section 2.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): We shall now take up the clause-by-clause consideration of the Bill. We shall now take up clause 2. There are two amendments. Yes, Mr. Gurudas das Gupta.

SHRI GURUDAS DAS GUPTA: Sir, I beg to move:

1. "That at page 1, for lines 10 to 20 the following be substituted, namely:—

(i) in clause (e),—

(a) the words "not exceeding one thousand and six hundred rupees per mensem" shall be omitted.'"

(b) the explanation shall be omitted."

SHRI GURUDAS DAS GUPTA: Sir, I beg to move:

2. "That at page 2, lines 1 to 3 be deleted."

The questions were put and the motions *were negatived.*

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): I shall now put clause 2 to vote.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 - Amendment of section 2A

SHRI GURUDAS DAS GUPTA: Sir, I beg to move:

3. "That at page 2, for lines 10-11, the following be substituted, namely:—

'(a) in clause (1) the brackets and words '(not being absence in respect of which an order imposing a punishment or penalty or treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment)' shall be omitted."

The question was put and the motion was negatived.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4—Amendment of section 4

SHRI DIPEN GHOSH (West Bengal): Sir, I beg to move:

4. "That at page 2 for lines 41-42, the following be substituted, namely:—

'(b) in sub-section (2),—

(i) for the words "fifteen days' wages" the words "one month's wages" shall be substituted; and

(ii) the following *Explanation* shall be inserted at the end, namely:—

SHRI DIPEN GHOSH: Sir, I beg to move:

5. "That at page 3, line 2, after the words 'fifty thousand rupees' the words 'but not less than twenty months' wages in any case' be inserted."

The questions were put and the motions were negatived.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): The question is:

"That Clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5—Insertion of new section 4A.

SHRI GURUDAS DAS GUPTA: Sir, I beg to move:

6. "That at page 3, line 18, after the words 'gratuity fund' the words 'deposited with an authority of the Government' be inserted."

The question was put and the motion was negatived.

THE VICE-CHAIRMAN: (SHRI H. HANUMANTAPPA): The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 was added to the Bill.

Clause 7 - Amendment of section 7

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): There are two amendments by Mr. Narayanasamy. He is not here. Yes, Mr. Gurudas Das Gupta.

SHRI GURUDAS DAS GUPTA: Sir, I beg to move:

8. "That at page 4, line 16 for the words 'not exceeding' the words 'at double' be substituted."

The question was put and the motion was negatived.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.
Clauses 8 and 9 were added to the Bill.
Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI P. A. SANGMA: Sir, I beg to move:

"That the Bill be passed."

The question was put and the motion was adopted.

THE COCONUT DEVELOPMENT BOARD (AMENDMENT) BILL, 1987

THE MINISTER OF AGRICULTURE (SHRI G. S. DHILLON): Sir, I beg to move:—

"That the Bill further to amend the Coconut Development Board Act, 1979, be taken into consideration."

Sir, this is a very simple amendment. Earlier, we had only the Agriculture Commissioner as a Member under section 4 (4) (b). Now, Sir, we have created a Horticulture Division in the Ministry of Agriculture and as this Horticulture Commissioner deals with coconut, we want to replace the Agriculture Commissioner by the Horticulture Commissioner. This is a very simple amendment.

I, therefore, move "that the bill be accepted."